

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Joseph Charles Tice,

Plaintiff,

vs.

Jerry B. Adger, *Head Probation Officer*; and
Lisa Baker, *Probation Officer*,

Defendants.

C/A No. 3:15-04781-JFA

ORDER

I. INTRODUCTION

Joseph Charles Tice (“Plaintiff”), proceeding pro se and *in forma pauperis*, filed this action pursuant to 42 U.S.C. § 1983 alleging a violation of his constitutional rights. This matter is before the Court on a motion for summary judgment by Jerry B. Adger and Lisa Baker (collectively “Defendants”). ECF No. 20.

II. FACTUAL AND PROCEDURAL BACKGROUND

On November 30, 2015, Plaintiff filed a complaint against Defendants. ECF No. 1. In addition, Plaintiff moved for leave to proceed *in forma pauperis* under 28 U.S.C. § 1915, ECF No. 2, which was granted on December 10, 2015, by Magistrate Judge Paige J. Gossett, ECF No. 8.

The Magistrate Judge assigned to this action¹ prepared a thorough Report and Recommendation (“Report”) and opines that this Court should grant Defendants’ motion for summary judgment to the extent Plaintiff raises claims against Defendants in their official

¹ The Magistrate Judge’s review is made in accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.). The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261 (1976).

capacities, but deny their motion as to the remaining grounds for summary judgment. ECF No. 42. Furthermore, the Magistrate Judge recommended that Defendants be granted leave to refile a motion for summary judgment properly supported by materials under Rule 56. *Id.* The parties were advised of their right to object to the Report, which was entered on the docket on August 19, 2016. ECF Nos. 42, 43. The Magistrate Judge gave the parties until September 6, 2016, to file objections; however, no objections were filed to the Report. *Id.* Thus, this matter is ripe for the Court's review.

III. DISCUSSION

The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. *See 28 U.S.C. § 636(b)(1).* In the absence of specific objections to the Report of the Magistrate Judge, this Court is not required to give an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983).

Although the parties did not file objections to the Report, Defendants did file a motion for summary judgment based upon the Magistrate Judge's recommendation that "Defendants be granted leave to refile a motion for summary judgment properly supported by materials under Rule 56." ECF No. 44. Defendants' recently filed motion for summary judgment does not address all of the positions argued in their previous motion. *Id.* In addition, Plaintiff has filed a response in opposition. ECF No. 49. Therefore, in an effort to streamline this matter so it can be properly addressed in one order, the Court adopts the Magistrate Judge's recommendation to grant Defendants leave to refile a properly supported motion for summary judgment; however,

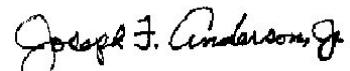
the Court refers this case back to the Magistrate Judge to address both of Defendants' motions for summary judgment, ECF Nos. 20, 44, simultaneously within one report and recommendation.

IV. CONCLUSION

After carefully reviewing the record in this case, the applicable law, and the Report, this Court adopts the Report and Recommendation only to the extent that it grants Defendants leave to refile a motion for summary judgment. ECF No. 42. Furthermore, the Court finds it appropriate to refer this case back to the Magistrate Judge to simultaneously address both pending motions for summary judgment. ECF Nos. 20, 44.

IT IS SO ORDERED.

November 17, 2016
Columbia, South Carolina



Joseph F. Anderson, Jr.
United States District Judge